

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 160 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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AMAD SALE MAMAD JANGIYA

Versus

STATE OF GUJARAT

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Appearance:

MR TS NANAVATI for Petitioner

MR DN PATEL, APP for Respondents.

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 08/08/97

ORAL JUDGEMENT

1. The petitioner, an externee under the impugned order dated 20/11/1996 (Annexure : D) passed by Respondent No.2, has preferred this petition challenging the said order as well as the Appellate Order dated 16/1/1997 (Annexure : H) passed by the respondent no.3 in appeal.

2. The proceedings of externment started pursuant to notice dated 17/5/1996 issued u/S. 59 of the Bombay Police Act, 1951. The said show cause notice refers to 6 cases of Kandla Police Station. However, the same does

not refer to any of the Chapter cases which are referred to in the impugned order of externment. They are in all 10 in number as particularised at page 37 of the papers of this petition. The ground of challenge against the impugned order in this respect is contained in grounds nos. 2 and 3 of the petition. It has been submitted from the said grounds that there is a violation of natural justice in as much as the said chapter cases have not been set out in the show cause notice, whereas they have been considered by the externing authority while passing the impugned order of externment. It has also been submitted that the externing authority has acted on extraneous material. Thus, it has been submitted that in any view of the matter, the impugned order of externment cannot stand.

3. Mr. D.N. Patel, Ld. A.P.P. for the respondents has verified the facts contained in the aforesaid two grounds and has fairly submitted that the said chapter cases have not been shown in the show cause notice. The result is that this petition shall have to be allowed on the aforesaid grounds of challenge contained in the petition.

4. In view of what is stated above, this Special Criminal Application is allowed. The impugned order of externment dated 20/11/1996 and the order of confirmation passed in Appeal by the Appellate Authority on 16/1/1997 are hereby quashed and set aside. Rule made absolute accordingly.

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